

REMARKS

The undersigned thanks the Examiner for the timely indication of allowed claims 16-24, and allowable claims 11-13, 29, and 31. Claim 3 has been amended. Reconsideration of the present application as amended is respectfully requested.

Claim 3 was rejected under 35 U.S.C. §112, ¶2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 3 has been amended to provide further clarification and is believed to address this ground of rejection.

Claims 1-10, 14, 15, 25-30, and 32-34 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,815,090 issued to Su (hereinafter "Su"). This ground of rejection is respectfully traversed. "[A]n invention is anticipated if the same device, including all the claim limitations, is shown in a single prior art reference. Every element of the claimed invention must be literally present, arranged as in the claim." Richardson v. Suzuki Motor Co. Ltd., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The claims must not be treated as "mere catalogs of separate parts, in disregard of the part-to-part relationships set forth in the claims and that give the claims their meaning." Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick Company et al., 730 F.2d 1452, 1459, 221 USPQ 481, 486 (Fed. Cir. 1984). It is respectfully asserted that Su does not teach all of the features of the invention defined in independent claim 1.

The Su reference is primarily directed to a system of sensors wired to a data collection unit as shown in Figures 1 and 2-5 and described in the accompanying text. Figure 1 illustrates a wired sensor arrangement in which multiple sensors are connected in series by cables to define

“zones” and are connected to the data collection unit. Figure 2 of Su is also directed to a wired sensor arrangement. Figures 6-8 and accompanying text of Su are directed to certain experimental wired sensor prototypes.

In contrast to the various wired sensor arrangements, only a single sentence of detailed disclosure is provided for a wireless link version, as follows: “[i]nstead of hard-wire components, such as cables, the system may instead be configured such that the sensors communicate with the data collection unit over independent wireless links formed using wireless communication devices, as shown for example in FIG. 3.” Su, col. 4, lines 20-25. This terse description combined with the generalized schematic view of Figure 3 leaves one wondering how such an embodiment might be designed or implemented. Su fails to provide any written description of the kind of wireless communication contemplated, such as ultrasound, infrared (IR), etc. Also, Su does not disclose whether the wireless communication device would be included within some sort of housing or assembly, or whether it is integral with or separate from a sensor.

The features of method claim 1 include providing a stimulus to one of the pest control devices to cause the respective communication circuitry to output information about the respective pest sensor. The wired sensor embodiments of Su lack pest control devices each including respective communication circuitry coupled to the respective sensor. Furthermore, there is no description of how Su’s wireless link version might operate, and correspondingly fails to disclose providing a stimulus among other things. In fact, Su’s sensor for this embodiment might operate by periodically or continuously communicating one-way to the data collection unit without any type of stimulus. In such an arrangement, the monitoring devices would be

dedicated transmitters. Accordingly, it is respectfully submitted that the rejection claim 1 should be withdrawn.

Besides the novelty of claim 1, further reasons support the patentability of corresponding dependent claims rejected on common grounds. For example, in rejecting claim 3 the office action asserts that the system in Su includes a passive RF transponder and a stimulus in the form of an RF signal. To the contrary, there is no disclosure in Su that the wired or wireless embodiments utilize RF. Instead, Su is silent as to what type of wireless technology is contemplated. Su lacks disclosure of any type of transponder, let alone a passive RF type, as detailed in claim 3. Indeed, Su's wireless embodiment lacks enablement of many aspects including the explanation as to how the wireless monitoring device is powered and the type of wireless link utilized. For example, instead of a passive transponder, it could be an active transponder. Su simply fails to indicate any of these alternatives.

In still another example, the office action rejects claim 4 with the assertion that the stimulus in Su's system is in the form of magnetic field (RF) and the pest control devices include a device responsive to the magnetic field to active the respective circuitry. Su fails to disclose a magnetic field and/or RF. Moreover, even assuming somehow that it did, such aspects are not included as features of claim 4.

In yet another example, the office action rejects claim 5 with the assertion that the information obtained from the detector in Su inherently quantizes the amount of consumption or displacement of the respective bait by the one or more species of pests. To the contrary, at most, Su discloses that either termites are present (open-circuit) or termites are absent (closed-circuit). The indication of termites being present or absent based on the circuit being open or closed does not involve quantization of the amount of consumption or displacement as defined in claim 5.

A further example arises in connection with claim 6. Claim 6 recites that the bait for the pest control devices includes a pesticide. The office action cites col. 7, lines 36-56 of Su in justifying its rejection, which is duplicated as follows:

Upon the detection of the presence of termites in the monitoring device, the monitoring device can be removed from the station housing (or soil) and replaced with a toxicant-containing matrix, in a toxicant delivery device (bait tube). Termites that are captured in the monitoring device can be extracted and gently tapped into an upper chamber of the toxicant delivery device. This upper chamber is the recruiters' chamber. In order to exit, the termites must then move through the toxicant-containing matrix to reach the exit points. No toxicant needs to be used unless termites are detected from the monitoring procedure (or are otherwise known to be present), thereby eliminating the use of any unnecessary toxicant. When termites are detected, the toxicant-containing matrix is utilized until no termite activity is detected in the toxicant delivery device. At that time, monitoring devices can be used again. In addition to the practice of replacing monitoring devices with toxicant delivery devices, another embodiment of the invention comprises a monitoring device which remains in place and a toxicant delivery device which can be added to, or fitted around, the monitoring device if the need arises to deliver toxicant.

A careful review of this passage shows that there is no disclosure of a monitoring device that includes a pesticide. Instead, the monitoring device is replaced with a pesticide-containing matrix or toxin delivery device or a toxin delivery device is added to or fitted around the monitoring device when a toxin needs to be delivered. The replacement of the monitoring device with a toxin or addition of a toxin delivery device to the monitoring system fails to describe a monitoring device that includes a pesticide. Accordingly, several reasons further support patentability of rejected dependent claims.

Independent claim 10 also includes features not disclosed in Su. For example, claim 10 recites first and second pest control devices that each include an activation device that triggers operation of a corresponding monitoring circuit. As previously explained, Su fails to disclose multiple activation devices specific to each pest control device used to trigger the operation of the monitoring circuit. In another example, claim 10 recites an indicating device for each of the multiple pest control devices. Su discloses a data collection unit that is used with multiple monitoring devices. Su, col. 4, lines 9-11. Even assuming *arguendo* that this unit is a form of an activation device and/or an indicating device, there is not one for each of multiple pest control devices as recited in claim 10 - - nor is such an arrangement taught or suggested in Su. It is respectfully submitted that Su fails to anticipate the invention defined in independent claim 10.

Besides the novelty of claim 10, further reasons support patentability of corresponding dependent claims rejected on an anticipation grounds. For example, claim 14 recites the bait includes a pesticide. The office action cites col. 7, lines 36-56 of Su in justifying its rejection. As previously explained in connection with claim 6, Su fails to disclose the bait including a pesticide.

Independent claim 25 also includes features not disclosed in Su. For example, claim 25 recites a system comprising a plurality of pest control devices that each include an activation device that is operable to selectively activate the monitoring circuitry as directed by an operator and an indicating device that is operable to provide the greater information in response to activation with the activation device. The Examiner asserts that the activation device is a computer and the indicating device a computer monitor. There is no disclosure of a computer or computer monitor for each of the plurality of pest control devices in the system. Furthermore, the computer/computer monitor (host processor of Fig. 1) of Su is remotely located and appears

at most to only receive collected data about monitoring devices from the data collection unit rather than direct activation of such devices. Su, col. 4, lines 30-34. Accordingly, Su does not anticipate claim 25.

Besides the novelty of claim 25, further reasons support patentability of its corresponding dependent claims rejected on an anticipation grounds. For example, claim 26 recites a switch operable to activate the monitoring circuitry. The office action appears to equate a computer to a soft switch. As best understood, a “soft switch” is an operation that may or may not be programmed into a computer. Su fails to disclose a form of operation or programming corresponding to a soft switch in connection with the computer of Fig. 1. In another example, claim 27 recites that the indicating device includes a visual indicator. Su fails to disclose multiple monitors to provide a visual indicator for each of a plurality of pest control devices in a system. In yet another example, claim 32 recites that the bait includes a pesticide. As previously explained in connection with claim 6, Su fails to disclose a bait including a pesticide. Accordingly, numerous further reasons support patentability of rejected dependent claims corresponding to claim 25.

Claim 2 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Su. This ground of rejection is respectfully traversed. “The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification.” In re Fritch, 23 USPQ2d, 1783-84 (Fed. Cir. 1992). As a corollary, the patent office has recognized that “[i]f proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.” Manual of Patent Examining Procedure (MPEP) § 2143.01. MPEP § 2143.01 also states that “[i]f the proposed modification

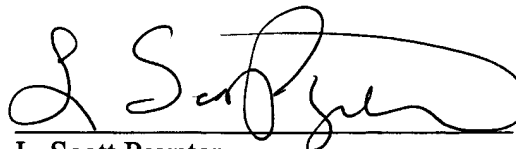
or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious.”

The Examiner asserts that allowing an operator to initiate the interrogation as desired would be advantageous and readily recognized by one skilled in the art. To the contrary, Su is directed to providing a remote monitoring system that avoids operator activation. Accordingly, the proposed modification undermines the operating goals of Su -- pointing to a lack of the requisite motivation to modify it as asserted. In fact, Su points away from more operator involvement.

Claims 16-24 have been allowed and claims 11-13, 29, and 31 have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

In view of the foregoing, it is believed claims 1-15 and 25-34 are in condition for allowance. The Examiner is encouraged to contact the undersigned by telephone to resolve any outstanding matters regarding the present application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "L. Scott Paynter", written over a horizontal line.

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